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<div>10/945      7590      05/18/2011</div> <div>NOKIA CORPORATION</div> <div>c/o Ware, Fressola, Van Der Stuyts &amp; Adolphson LLP</div> <div>Building Five, Bradford Green</div> <div>755 Main Street, PO Box 224</div> <div>Monroe, CT 06468</div>				
EXAMINER				
TORRES, MARCOS L				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/648,778

**Applicant(s)**

RANTA-AHO ET AL.

**Examiner**

MARCOS TORRES

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 and 30-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 30-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1-18-11, 3-9-11
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
2. Regarding applicant's arguments that "the establishment of the master node is not established among the plurality of devices, but merely negotiated among two devices ... Therefore, contrary to the assertions of the Office in section 3 of the Office Action, there is no indication to a plurality of devices in establishment of a master device"; two devices reads on a plurality of devices and Souissi is not directed to only 2 devices, but to a plurality of devices as seen in fig. 1.
3. In view of the applicants argument that "the combination of the 3GPP specification and the negotiation of a master cell between two peer nodes or the identification of a node as being a master node in one picocell to another master node in another picocell would lead one skilled in the art to the combination of a user equipment selecting and signaling which of a plurality of base stations involved in a soft handover is to be the scheduling cell for the user equipment, as recited in the present application", the current rejection in record only relies for Souissi for the signaling of indicating the scheduling cell. Therefore, it would be obvious to one of the ordinary skills in the art of sending the notification of the scheduling cell is to let know the scheduling cell that is the one in charge and let the other Node B know not to waste the limited resources by issuing commands that no device is going to follow.

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4. As to applicant argument that "in Souissi, the addressed issue is how to select a master node between two ad hoc peer nodes when none has been selected yet"; Souissi is not only directed to selecting a master node, but to an efficient use of the wireless resources and improve the communication by avoiding communication collisions (see par. 0006, 0008), because the 3GPP specification also deals with efficient wireless spectrum in the soft handover (see 7.2.1.), both references are analogous and properly combinable.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 10-16, 19-23, 26-27, 30-40 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Souissi 20020075941.

As to claims 10 and 26, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device, comprising: means for wirelessly communicating with Node Bs of a radio access network in a wireless communication system; a pointer for indicating a maximum allowed rate of uplink to the wireless communication system; means for adjusting the pointer responsive to scheduling commands received from a Node B controlling a cell in which the user equipment device is located; and means for up linking information indicating as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover, each cell possibly controlled by a different Node B the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and

able to provide scheduling commands (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose, determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 11, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein the user equipment device comprises: means for selecting as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover (see sections 6.3,7.1.2.5-7.1.3,7.2.4).

As to claim 12, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein the user equipment device comprises: means for determining whether scheduling

commands are sent by the Node B controlling the scheduling cell and for disregarding all scheduling commands sent by other than the Node B controlling the scheduling cell [note by definition the commands of the other Node B has to be ignored, otherwise they will become controlling Node B](see sections 6.3,7.1.2.5-7.1.3,7.2.4).

As to claim 13, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device as in claim i0, wherein the user equipment device further comprises: means for synchronizing the pointer to a corresponding pointer in the Node B controlling the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 14, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein for synchronization, the user equipment device sets the pointer the user equipment maintains to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 15, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a predetermined value (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 16, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, both the Node B and the user equipment device set their respective pointers according to predetermined criteria (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 19 and 27, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses Node B comprising: means for wirelessly communicating with a user equipment device as an element of a radio access network of a wireless communication system; and means for determining when to assume control of scheduling of the user equipment device and when to cease control of scheduling of the user equipment device based on information up linked by the user equipment device indicating as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, (see sections 7.1.1-7.1.1.3, 7.3.2). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose, determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses determining whether it is in control of the



scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 20, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses Node B further comprising: a pointer the Node B maintains indicating a maximum allowed rate of uplink by the user equipment device; and means by which the Node B synchronizes to the pointer in the user equipment device the pointer the Node B maintains for indicating the maximum allowed uplink data rate for the user equipment device (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 21, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses Node B of claim 20, wherein for synchronization, the Node B sets the pointer the node B maintains to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 22, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the

synchronization procedure, the Node B sets the pointer it maintains to a predetermined value (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 23, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, both the Node B and the user equipment device set their respective pointers according to predetermined criteria (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 30, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: means for adjusting a pointer in response to received scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and means for up linking information indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which the user equipment is being handed over in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-

06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 31, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses, comprising: means for providing scheduling commands to the user equipment device for adjusting a corresponding pointer in the user equipment device, the means providing scheduling commands comprising a pointer for indicating a maximum allowed rate of uplink to the Node B by a user equipment device located in a cell controlled by the Node B; and means for determining whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to

provide scheduling commands, (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 32, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: a processor, configured to: adjust the pointer in response to scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and uplink information indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the

uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 33, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses an apparatus wherein the processor is further configured to: select as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 34, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses an apparatus wherein the processor is further configured to: determine whether scheduling commands are sent by the Node B

controlling the scheduling cell and to disregard all scheduling commands sent by other than the Node B controlling the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 35, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: a processor, configured to: provide scheduling commands to the user equipment device for adjusting a corresponding pointer in the user equipment device, the scheduling commands comprising a pointer for indicating a maximum allowed rate of uplink to a Node B by a user equipment device located in a cell controlled by the Node B; and; and determine whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling

commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 36, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus as in claim 35, wherein the processor is further configured to: synchronize to the corresponding pointer in the user equipment device the pointer in the Node B.

As to claim 37, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, wherein the processor is further configured so that for synchronization, the pointer in the Node B is set to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 38, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method comprising: signaling in an uplink during soft handover from a first cell controlled by a first Node B to a second cell controlled by a second Node B information indicating one of the first and second cell as a scheduling cell and so indicating one of the first Node B and second Node B as the

scheduling Node B; and receiving from the scheduling Node B scheduling commands for controlling a pointer in a user equipment device indicating a maximum allowed data rate for uplink the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions

As to claim 39, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses method further comprising: synchronizing the pointer to a corresponding Node B pointer maintained by the scheduling Node B, according to a synchronization procedure, and in synchronizing the pointer, the pointer is either set to the data rate used in the uplink of the information



indicating the scheduling cell, or is set according to predetermined criteria, or is set to a value signaled by the scheduling Node B (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 40, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses method comprising: receiving by a Node B, in uplink information indicating a cell as a scheduling cell; determining whether the cell indicated as the scheduling cell is a cell controlled by the Node B; and issuing scheduling commands for controlling a pointer in a user equipment device indicating a maximum allowed data rate for uplink but only if the cell indicated as the scheduling cell is a cell controlled by the Node B the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master

station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 42, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses system, comprising a plurality of user equipment terminals, wherein each user equipment device comprises a processor, configured to: adjust a pointer in response to received scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and a plurality of Node Bs, wherein each of the Node Bs includes an apparatus comprising: a pointer for indicating a maximum allowed rate of uplink to the Node B by a user equipment device located in a cell controlled by the Node B; a processor, configured to: provide scheduling commands to the user equipment device located in a cell controlled by the Node B, for adjusting a corresponding pointer in the user equipment device; and determine whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 7.1.1-7.1.1.3,7.3.2). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio

Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 43, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses system as wherein the processor is further configured to: synchronize a pointer in the Node B to the pointer in the user equipment device, according to a synchronization procedure, and in synchronizing the pointers, the Node B pointer is either set to the data rate used in the uplink of the information indicating the scheduling cell, or is set according to predetermined criteria, or is set to a value selected by the Node B and the Node B signals the selected value to the user equipment device (see sections 7.1.1-7.1.1.3, 7.3.2).

9. Claims 1-5 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access

Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Morimoto 20090143075 and further in view of Souissi 20020075941.

As to claim 1, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method for use by a user equipment device and Node Bs of a wireless telecommunication system, the method for enabling Node B based control during soft handover of the maximum data rate allowed for uplink by the user equipment device as indicated by a pointer in the user equipment device, the soft handover resulting in a change of a controlling Node B from a first one of the Node Bs to a second one of the Node Bs, each of the Node Bs for providing commands for control of user equipment devices in at least one respective cell so that scheduling control of the user equipment device in soft handover is simultaneously in at least two cells each possibly controlled by a different one of the Node Bs, the method comprising: the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; a Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands and issuing scheduling commands for controlling the pointer in the user equipment device if it is in control, but issuing no such commands if it determines it is not in control of the scheduling cell (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically

disclose the rest of the Node B receiving the indication. In an analogous art, Morimoto discloses each node B receiving the uplink control data (see par. 0091-0092).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to inform each node B of the control information so each node B act accordingly, avoid waste of the wireless resources. The previous references does not disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in information indicating one of the cells as a scheduling cell; each Node B receiving the indication one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 2, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method further comprising: the user equipment device and also the Node B in control of the scheduling cell each synchronizing a respective pointer for indicating the maximum allowed uplink data rate for the user equipment device to a value according to a synchronization procedure (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 3, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release

6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, the Node B sets the pointer the node B maintains to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 4, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a predetermined value (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 5, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, both the Node B and the user equipment device set their respective pointers according to predetermined criteria (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 28, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method for a user equipment device and Node Bs [which are required to contain a storage medium] of a wireless telecommunication system, the method for enabling Node B based control during soft handover of the maximum data rate allowed for uplink by the user equipment device as indicated by a pointer in the user equipment device, the soft handover resulting in a

change of a controlling Node B from a first one of the Node Bs to a second one of the Node Bs, each of the Node Bs for providing commands for control of user equipment devices in at least one respective cell so that scheduling control of the user equipment device in soft handover is simultaneously in at least two cells each possibly controlled by a different one of the Node Bs, the method comprising: the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; a Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands and issuing scheduling commands for controlling the pointer in the user equipment device if it is in control, but issuing no such commands if it determines it is not in control of the scheduling cell (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose the rest of the Node B receiving the indication. In an analogous art, Morimoto discloses each node B receiving the uplink control data (see par. 0091-0092). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to inform each node B of the control information so each node B act accordingly, avoid waste of the wireless resources. The previous references does not disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in information indicating one of the cells as a scheduling cell; each Node B receiving the indication one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell

(see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

10. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Morimoto 20090143075 and further in view of Souissi 20020075941 as applied to claims 1 and 2 above, and further in view of the admitted prior art.

As to claim 7, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to the data rate used in the uplink of the information indicating the scheduling cell or to a predetermined value (see sections 7.1.1-7.1.1.3, 7.3.2), 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specify to use whichever is greater. The admitted prior art discloses that is known to use whichever is greater (see page 1, line 21-26). Therefore, it would have been obvious to one of the



ordinary skill in the art at the time of the invention to use the faster so the user can have the fastest connection available, thereby increasing user satisfaction.

As to claim 6, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a value it selects (see sections 7.1.1-7.1.1.3, 7.3.2). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specifically disclose explicitly signals the value to the user equipment device. However using explicit signaling (for example: set a value of 10) is a design choice within the knowledge of one of ordinary skill in the art, if is interested in changing the value he may explicitly use the desired value.

As to claims 8 and 9, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) and Souissi disclose everything as explained above (see claim 1) except for the method wherein the issuing of scheduling commands is provided using differential signaling. However, in the admitted prior art the applicant admits that it know to use differential signaling to control the Node B (see page 1, col. 21-29). Moreover, choosing between using differential signaling (for example: increase by a value of 10) and explicit signaling (for example: set a value of 10) is a design choice within the knowledge of one of the ordinary skill in the art, if one

of the ordinary skill in the art is interested in keep track of the changes he may use differential signaling if is only interested in changing to the desired value he may use explicit. Both are a common and well-known technique.

11. Claims 17-18 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Souissi 20020075941 as applied to claims 13, 36 and 40 above, and further in view of the admitted prior art.

As to claims 18 and 25, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to the data rate used in the uplink of the information indicating the scheduling cell or to a predetermined value (see sections 7.1.1-7.1.1.3, 7.3.2), 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specify to use whichever is greater. The admitted prior art discloses that is known to use whichever is greater (see page 1, line 21-26). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use the faster so the user can have the fastest connection available, thereby increasing user satisfaction.

As to claims 17 and 24, 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a value it selects (see sections 7.1.1-7.1.1.3,7.3.2). 3<sup>rd</sup> Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specifically disclose explicitly signals the value to the user equipment device. However using explicit signaling (for example: set a value of 10) is a design choice within the knowledge of one of the ordinary skill in the art, if is interested in changing the value he may explicitly use the desired value.

### ***Conclusion***

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